



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-130515 G. 94

MAR 7 1979

The Honorable John J. Rhodes
House of Representatives

Dear Mr. Rhodes:

This responds to your request for our consideration of a problem raised in a letter from Josephine V. Molina, of Guadalupe, Arizona, one of your constituents. Her letter is being returned as you requested.

Ms. Molina expressed concern about the proposed purchase of the "GO Restaurant" from the Guadalupe Organization, Inc., (GO) by the Guadalupe Town Council for \$45,000, utilizing Federal Revenue Sharing funds. She alleges that approximately 4 to 7 years ago, an old Army barracks was remodeled as a low-priced "restaurant" for senior citizens by a group of men who were paid under a GO training program that was federally funded. The "GO Restaurant" never opened. Ms. Molina asks:

- (1) Whether GO can sell the "restaurant" after using Federal funds to remodel it?
- (2) If Federal funds were used to remodel the barracks, whether the money GO receives for the "restaurant" should be used to benefit the community?
- (3) Whether Federal Revenue Sharing funds may be used to purchase the building and land without an appraisal?

As you know, Guadalupe is a community located in a poverty area near the cities of Tempe and Phoenix, Arizona. Guadalupe Organization which is located in that community, was incorporated in 1964. In 1965, it became the first community action agency grantee funded in Arizona under Title II of the Economic Opportunity Act, 42 U.S.C. § 2782 (1970).

While a substantial portion of GO's funding consisted of Office of Economic Opportunity (OEO) grant funds, GO had, in addition, non-Federal sources of funding. A complete history of GO's grant relationship with the OEO through the 1971-72 program year is set forth in a report to you entitled "Certain Activities Of The Guadalupe Organization, Inc., Guadalupe, Arizona" (B-130515), dated September 21, 1972. (For your convenience, another copy is enclosed.) We noted that GO used its own funds and borrowed money from outside sources in order

to finance expenditures in excess of an amount authorized by an OEO grant. *Id.*, p. 7-8. Additionally, we stated that GO used OEO grants funds to pay salary and travel expenses incurred for activities funded by another Federal agency (the Economic Development Administration) and by a private organization. *Id.*, p. 12. Further, we noted that GO collected \$3 in annual dues from its 405 members, *id.*, p. 15, and charged a fee for certain services. *Id.*, p. 18. Therefore, it is possible that the "restaurant" may have been built with non-Federal funds.

To update our information, we wrote to the Community Services Administration (CSA), successor to the OEO, for whatever additional information it might have on the project. CSA reported that in the 1972-73 program year, GO received two more grants from OEO. On June 21, 1972, OEO approved GO's proposal for a grant of \$195,000 for a migrant and other seasonal farm worker program. This was the last grant, except for a one-month grant for a close-out audit which was awarded on June 28, 1973. Since that time, there has been no grantor-grantee relationship between GO and OEO or its successor, CSA.

According to Ms. Molina, the Army barracks was remodeled approximately 4 to 7 years ago. At the very earliest, therefore, we are concerned with grants awarded in 1971. According to the grant history cited in our previous report, GO received Title III, Part B, grant funds during the program year 1971-72. Although the grant document provided by CSA does not cite any statutory authority, funds provided for the 1972-73 program year were presumably Title III, Part B, funds as well because the grant funded a program for migrant and other seasonal farm workers.

Under Title III, Part B, of the Economic Opportunity Act of 1964, as amended, 42 U.S.C. § 2861 et seq., the Director of OEO was authorized to provide financial assistance to migrant and other seasonally employed farmworkers and their families. Specifically, with regard to training, the Director was authorized--

"(3) to equip unskilled migrant and seasonal farmworkers and members of their families as appropriate through education and training to meet the changing demands in agricultural employment brought about by technological advancement and to take advantage of opportunities available to improve their well-being and self-sufficiency by gaining regular or permanent employment or by participating in available Government employment or training programs." 42 U.S.C. § 2862 (b)(3).

Ms. Molina alleges that "when the building was remodeled, a group of men under a training program were paid with a federal grant Guadalupe Organization had received." CSA officials have stated, however, that they know of no project to remodel an Army barracks as a "restaurant" for senior citizens.

The GAO audit report, cited above, which was based on an audit of the financial transactions of the organization as well as on an examination of various aspects of GO's program, indicates that GO's expenses, except for travel expenses, were generally supported. Id., p. 7. Additionally, the GAO audit report indicates that GO's education and training program was conducted in classroom space provided by a local elementary school district. Further, there is no indication in the report that remodeling the barracks was part of the training program or that grant funds were used to pay trainees to remodel the "restaurant".

In addition to the GAO audit in 1972, there was a close-out audit performed by OEO auditors in 1973. The OEO audit was directed primarily towards--

- (1) determining costs allocable to Program Year "F", March 1, 1971, through February 28, 1972, and the period, March 1, 1972, through August 31, 1972;
- (2) reconciliation of all grant funds from Program Year "A" through August 31, 1972; and
- (3) disposition of accountable property.

The finding made by OEO auditors with regard to "accountable property" showed that GO had equipment on hand which cost \$3,539. The OEO report recommended that disposition action be taken by OEO. There is no indication in the close-out audit that GO had a "restaurant" for which it was accountable to the OEO.

Even if the trainees did work on remodeling the barracks as a "restaurant" during the training program, the finished "restaurant" may be considered an incidental end product of the training program. There is a distinction between grant funds which are provided to accomplish a specific purpose--i.e., a grant for the construction or remodeling of a building---and grant funds provided for training in building skills as the result of which a useful product is produced. The amount of grant funds in the latter situation is likely to amount to only a small fraction of the total costs of constructing or remodeling the building.

In this case, however, CSA informs us that no trainees were used to refurbish the barracks as a "restaurant" nor were CSA funds of

any description used for this purpose. We have no information to refute these statements, particularly since the actions complained of took place 4 to 7 years ago. Accordingly, we would have no legal basis for questioning GO's authority to sell the "restaurant" and retain the proceeds of the sale.

With regard to Ms. Molina's question about Revenue Sharing funds, we conclude that such funds may be used for the purchase of the land and building without an appraisal as long as the sale is otherwise in compliance with State and local laws and regulations.

The provisions of Title III of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (URA), 42 U.S.C. §§ 4601 et seq. (1976) provide that whenever property is acquired for a Federal or federally assisted project, the acquiring Federal or State or local agency must obtain an appraisal of the property.

The State and Local Fiscal Assistance Act of 1972, as amended, 31 U.S.C. § 1221 et seq. (1976), authorizes the Federal Government to provide States and localities with a specified portion of Federal individual income tax collections to be used by them in accordance with local needs and priorities and without the attachment of strings by the Federal Government. S. Rep. No. 92-1050, 92d Cong., 2d Sess. 1 (1972).

In order to answer the question on the propriety of using Revenue Sharing funds to purchase the land and building without an appraisal, we solicited the opinion of the Office of Revenue Sharing, Department of the Treasury. That Office administers the distribution of revenue sharing funds pursuant to the Act.

The Office of Revenue Sharing informed us that under section 123(a) (4) of the Act, 31 U.S.C. 1243(a)(4), a recipient government--

"shall expend its revenue sharing funds only in accordance with the laws and procedures applicable to the expenditure of its own source revenues. Accordingly, if Guadalupe, Arizona allocated its revenue sharing entitlement funds for the purchase of a restaurant, Arizona State and local laws with respect to real estate transactions would apply."

We agree. We do not believe the provisions of the URA are applicable to actions taken with revenue sharing funds. We should point out, however, that in a 2 to 1 decision, the United States Court of Appeals for the Fifth Circuit held that revenue sharing recipients who finance

projects with revenue sharing funds are subject to the Uniform Relocation Act. Goolsby v. Blumenthal, 581 F.2d 455 (1978). The court has granted the Government's request for an en banc hearing. Other courts have confirmed our view that there is no Federal requirement for appraisals when revenue sharing funds are used to make the acquisition.

In addition, the Office of Revenue Sharing wrote the Mayor of the Town of Guadalupe for information on whether State or local laws and procedures require an appraisal prior to the purchase of real property, and was informed by the Attorney for the Town of Guadalupe that there was no such requirement. We checked the Arizona statutes and were also unable to find such a requirement. Therefore, in the absence of a definitive court decision that the URA applies to purchases made with revenue sharing funds, we conclude that GO was not required to appraise the property prior to the sale.

We trust that the above information answers some of the questions raised by your constituent.

Sincerely yours,

Comptroller General
of the United States

Enclosures

March 7, 1979

DIGESTS

1. Guadalupe Organization, Inc. (GO), an Office of Economic Opportunity (OEO) grantee, may sell the "GO Restaurant" and retain the proceeds of the sale, unless some provision of local law or the terms of its charter requires it to expend the proceeds of the sale for the benefit of the community. There is no evidence indicating that GO used trainees in an OEO-funded training program to refurbish an Army barracks as a "restaurant". However, where Federal grant funds are provided for training in building skills, rather than for building or remodeling a building, a resulting building may be considered an incidental end product of the training program.

2. The Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (URA), requires an appraisal whenever property is acquired for a Federal or federally assisted project. The State and Local Fiscal Assistance Act of 1972, on the other hand, states that a recipient government shall expend its revenue sharing funds only in accordance with the laws and procedures applicable to the expenditure of its own revenues. In this case, applicable Arizona laws and procedures do not require an appraisal prior to the purchase of real property. Therefore, in the absence of a definitive court decision stating that the URA applies to purchases made with revenue sharing funds, we conclude that GO was not required to appraise the property prior to the purchase of the property by the Guadalupe Town Council utilizing revenue sharing funds.

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